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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/555,921	11/04/2005	Frederick Leslie Brown	CUNANT 1716US	4319
20210	7590	08/07/2008	EXAMINER	
DAVIS BUJOLD & Daniels, P.L.L.C.			WILLIAMS, MAURICE L	
112 PLEASANT STREET			ART UNIT	PAPER NUMBER
CONCORD, NH 03301			3611	
MAIL DATE		DELIVERY MODE		
08/07/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/555,921	<b>Applicant(s)</b> BROWN, FREDERICK LESLIE
	<b>Examiner</b> MAURICE WILLIAMS	<b>Art Unit</b> 3611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 30 April 2008.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 13-26 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 13-26 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_

5) Notice of Informal Patent Application  
6) Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 13-20, and 22-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Callan et al. (US 2003/0132038).  
fork lift truck (Fig. 4) comprising:
  - a truck body (11),
  - a lift mechanism (12) connected to the truck body by means of a vertically extending pivot (18) and means (17) for turning the lift mechanism relative to the truck body about said pivot,
  - a pair of rear ground engaging wheels (24, 26) mounted on transverse axes, the lifting mechanism having a single ground engaging front wheel (23) mounted centrally on a transverse axis, wherein the front wheel has independent drive means (¶ 0023).The lifting mechanism is pivoted at an angle of substantially 90 degrees (Fig. 3). The front wheel is positioned forwardly of the pivot connection (Fig. 4) and positioned as far forward as possible towards the load bearing part of the lifting mechanism.

Independent drive means (¶ 0023, ln. 1-3) are provided to drive each of the rear wheels, which are connected to a power source so that the rear wheels driven automatically at different speeds (¶ 0023, ln. 8-12).

The wheels are connected to a power source in a manner which permits the power to be changed between wheels (¶ 0022, ln. 4-7).

The wheels are driven by electric or hydraulic motors (¶ 0022, ln. 6) which are connected to the wheels (¶ 0022, ln. 4-7)

Power is provided to the motors by an internal combustion engine (¶ 0018, ln. 13).

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Callan in view of Hagin et al (US 4,778,020). Callan discloses as discussed above, but does not directly disclose a gearbox. Hagin discloses a gearbox (3) connecting the motor to the wheels. Therefore, it would have been obvious to a person having ordinary skill in the art at the time of the invention to modify Callan as taught by Hagin in order to provide a well-known means of power transfer between the motor and wheel (¶ 0010 of Callan explains that the wheels can be driven by a differential unit).

***Response to Arguments***

4. Applicant's arguments filed 4/30/2008 have been fully considered but they are not persuasive. Callan is a proper prior art reference, as it was filed 01/14/2003, which is before the priority date of the present application. Section 102(e) applies for "an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent." Applicant's traversal of the 103 rejection merely states that the combination is not proper without pointing out any specific deficiencies, which is insufficient to overcome the rejection.

***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Gotz ('329), Granlind ('872), Pipes ('166), Kuert ('634) and Barnowsky ('512).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MAURICE WILLIAMS whose telephone number is (571)272-4263. The examiner can normally be reached on Monday - Friday, 8 a.m. - 5 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (571) 272-6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Maurice Williams/  
Examiner, Art Unit 3611  
Maurice Williams  
Examiner  
Art Unit 3611

MLW  
August 4, 2008

/Joanne Silbermann/  
Primary Examiner, Art Unit 3611